

## **REMARKS**

Claims 1-22 were examined and reported in the Office Action. Claims 1, 2, 4, 5, 10, 21 and 22 are rejected. Claims 4 and 6 are canceled. Claims 1, 2 and 5 are amended. Claims 1-3, 5 and 7-22 remain.

Applicant requests reconsideration of the application in view of the following remarks.

### **I. In the Drawings**

The drawings are objected to under 37 CFR §1.83(a) for not illustrating “the tube being threaded.” Applicant has canceled claim 9 to overcome the 37 CFR §1.83(a) objection. Approval is respectfully requested.

### **II. In the Specification**

It is asserted in the Office Action that the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. Applicant has amended claim 1 to overcome the specification objections.

Accordingly, withdrawal of the specification objections are respectfully requested.

### **III. Claim Objections**

It is asserted in the Office Action that claims 4 is objected to under 37 CFR §1.75(c) and claims 6 and 12 are rejected to under 37 CFR §1.75. Applicant has canceled claims 4 and 6. Therefore, the aforementioned objections are moot.

### **IV. 35 U.S.C. § 112, Second Paragraph**

It is asserted in the Office Action that claims 1, 2, 4-8, 10, 12, 21 and 22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has

amended claims 1 and 5 clarification and to overcome the 35 U.S.C. § 112, second paragraph rejections.

Accordingly, withdrawal of the 35 U.S.C. § 112, second paragraph rejections for claims 1, 2, 4-8, 10, 12, 21 and 22 are respectfully requested.

V. **35 U.S.C. § 103(a)**

A. It is asserted in the Office Action that claims 1, 2, 4, 5, 10, 21 and 22 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over U. S. Patent 6,928,895 issued to Davies ("Davies") originally published as US PG Pub 2003/0029258, in view of U. S. Patent No. 5,017,912 issued to Willis ("Willis"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered* in judging the patentability of that claim against the prior art.” (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Davies discloses an actuator for actuating a moving member, for example, a stabilizer of a transport craft/aircraft. The Davies' actuator includes a pin and the fracture of the pin involves the transfer of the load from a primary load path to a secondary load path (see Davies, col. 4, lines 51-56).

Willis discloses a shear pin with an electrical link passing through the pin for the purpose of providing electrical detection and reporting of a sheared element.

Distinguishable, Applicant's claimed invention includes a shear pin for the detection of the transfer of the load from a first nut to a second nut. Additionally, as recited in Claim 1, the pin is provided with a spring that generates a parting force on the pin so that the pin breaks by shearing, which causes the two portions of the pin that are separated by the pin breaking to move apart. Applicant's spring is used to ensure that the two portions of the conductive wire have been completely disengaged to prevent them from being reconnected by contact (see Applicant's paragraph [0037]).

Even if Willis is combined with Davies the resulting invention would still not teach, disclose or suggest Applicant's claim 1 limitations of "wherein the pin includes a spring that operates to generate a parting force on the pin so that the pin breaking by shearing causes two portions of the pin separated by the pin breaking to move apart."

Since neither Davies, Willis, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's claim 1, Applicant's amended claim 1 is not obvious over Davies in view of Willis since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from claim 1, namely claims 2, 5, 10, 21 and 22, would also not be obvious over Davies in view of Willis for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claims 1, 2, 4, 5, 10, 21 and 22 is respectfully requested.

## **VI. Allowable Subject Matter**

Applicant notes with appreciation the Examiner's assertion that claims 6 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully asserts that claims 1-3, 5 and 7-22, as they now stand, are allowable for the reasons given above.

### CONCLUSION

In view of the foregoing, it is submitted that claims 1-3, 5 and 7-22 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

### PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on February 22, 2007, Applicant respectfully petitions Commissioner for a one (1) month extension of time, extending the period for response to June 22, 2007. Attached is a check in the amount of \$120.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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By: \_\_\_\_\_

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Dated: June 20, 2007

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### CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

Jean Svoboda

Date: June 20, 2007